

### **Constitution Article VI, Section 1, Clause C**

C. All financial appropriations or revenue reductions require a two-thirds (2/3) vote of the entire Senate for approval.

By directing the ASUC to change its appropriations and revenue reductions based on specific criteria, Senate Bill 160 sets up unconstitutional triggers to automatically alter ASUC investments when stating “if at any time it is found that campus or UC funds are being invested in any companies meeting any of these criteria, including Caterpillar, Cement Roadstone Holdings, and Hewlett Packard Company the ASUC will itself divest”, and also commands that “the ASUC will not make further investments, and will advocate that the UC system not make further investments, in any companies materially supporting or profiting from Israel’s occupation in the above-mentioned ways, until a point in time at which they cease such practice”. It is essential to note the use of the word “will” as opposed to “should”, which differentiates directives from recommendations. The bill also commands that “if at any time ASUC funds or UC funds are found to be invested in companies profiting from organizations that target Israeli civilians, the ASUC and the UC system should follow similar steps as outlined in the prior clause and divest those funds”. This bill strips the constitution of its authority, which calls for a 2/3 vote for any changes to ASUC appropriations and recommendations. Senate Bill 160 goes further than merely recommending the ASUC to act in a specific way, by directing and commanding that the ASUC changes its investments based on the given criteria. These conditional statements put in place automatic investment and divestment triggers that this clause does not permit the Senate to do at most at all, and at least with a 2/3 vote. The possibility of a revenue reduction by altering these practices was not properly vetted and therefore also challenges this clause, which would require a 2/3 vote of the entire senate. This senate bill has no authority to wield such power since each appropriation and reduction must go through a 2/3 vote of the entire senate for approval. The remedy sought by this charge is to send Senate Bill 160 back to the ASUC Senate for a 2/3 vote, which this By-law requires.

### **By-Laws Title III Article X Section 10 Clause 4**

10.4 Authority  
The Committee shall:

1. Establish a written investment policy that is consistent with ethical banking practices, and the values of the ASUC as determined by the Senate.
2. Conduct analyses of ASUC investments to ensure they are in line with the investment policy.
3. Conduct a yearly review of the services and policies of the bank or credit union in which the ASUC keeps its cash and cash equivalents. The Committee shall determine whether or not the banking institution continues to provide adequate services and operate in a manner consistent with the Investment Policy.
4. Produce and present a quarterly written report to the ASUC Senate outlining the how the ASUC should be investing its money.
5. Have the authority to direct all holdings, investments, and investment practices of the ASUC. Amended per SB 77, Week #6.

The ASUC By-laws explicitly enumerate the ASUC Investment Committee with the “authority to direct all holdings, investments, and investment practices of the ASUC”. Senate Bill 160 directly contradicts this By-law by usurping the authority given to the investment committee when stating that “if at any time it is found that campus or UC funds are being invested in any companies meeting any of these criteria, including Caterpillar, Cement Roadstone Holdings, and Hewlett Packard Company the ASUC will itself divest”. This call for divestment and the altering of ASUC investment practices were not properly vetted by the structures put in place to deal with ASUC investments. With ‘if, then’ word choice Senate bill 160 directs the investment practices of the ASUC with binding language void of the due process that this By-law protects. The ASUC goes further than providing recommendations by putting forth conditional statements for ASUC investment practices. It does also provide recommendations to alter investment practices when stating that “if at any time ASUC funds or UC funds are found to be invested in companies profiting from organizations that target Israeli civilians, the ASUC and the UC system should follow similar steps as outlined in the prior clause and divest those funds”, and when stating that “the ASUC will not make further investments, and will advocate that the UC system not make further investments, in any companies materially supporting or profiting from Israel’s occupation in the above-mentioned ways, until a point in time at which they cease such practices”. At the very least this component of the bill alters the “investment practices” of the ASUC, which the Investment Committee has the authority to do. Calling on the UC Regents to alter their practices is far different than commanding the ASUC to invest and divest its funds in a specified manner. The Investment Committee is also charged with the task of establishing “a written investment policy that is consistent with ethical banking practices, and the values of the ASUC as determined by the Senate”. Although the ASUC is to express its banking “values” for this investment policy, it overextended itself by taking the committee’s task of using those values to alter and direct specific investment policy. The remedy sought by this charge is to send Senate Bill 160 back to the ASUC Senate to either follow this By-law or take the 2/3 vote necessary to suspend this By-law.

#### **Constitution Article VI Section 8 Clause A**

#### **SECTION 8: FISCAL ACCOUNTABILITY**

The ASUC shall specify in the By-laws restrictions on the use of ASUC funds.

#### **By-Laws Title I, Article VII Section 7 Clause 9 Item 2**

##### **7.9 Standing Committee on Constitutional and Procedural Review**

1. Voting members: Seven (7) Senators. The Attorney General and Solicitor General shall be non-voting members.

2. Functions

a. To study and review all proposed changes in the Constitution, By-laws, and/or Standing Rules of the ASUC, recommending needed changes to the Senate.

b. To review the President's nomination for the Judicial Council and select the final nomination(s) to be forwarded to the Senate. The Committee must select the final nominee(s) by the second Regular Senate Meeting after having received the President's nomination(s) and the nominees’ contact information.

c. To deal with bills involving internal ASUC activities.

By restricting ASUC investments without having specified such actions in the By-laws directly contradicts these clauses. Instructing the “Boston Trust” and the ASUC to follow various investment and divestment practices oversteps the fact that the “ASUC shall specify in the By-laws restrictions on the use of ASUC funds.” Such changes are of course possible, but the avenue for that action requires consent from the Committee on Constitutional and Procedural Review, who has jurisdiction over reviewing and studying “all proposed changes in the Constitution, By-laws, and/or Standing rules of the ASUC”. Asking the UC Regents to change their actions must be distinguished from instructing the ASUC itself to abide by certain investment and divestment criteria. The remedy sought by this charge is to send Senate Bill 160 back to Constitutional and Procedural Review Committee, or back to the Senate for a 2/3 vote to suspend the By-law.